

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**IN RE: TESTOSTERONE REPLACEMENT
THERAPY PRODUCTS LIABILITY
LITIGATION**

**Case No. 1:14-cv-1748
MDL No. 2545
Hon. Matthew F. Kennelly**

THIS DOCUMENT RELATES TO:

James Ryan
Case No. 1:17-cv-00711

v.

Auxilium Pharmaceuticals, Inc., et al.

**JOINT MOTION FOR RELIEF
FROM CASE MANAGEMENT ORDER NO. 118**

Plaintiff James Ryan and Defendants Auxilium Pharmaceuticals, LLC (f/k/a Auxilium Pharmaceuticals Inc.) (“Auxilium”) and GlaxoSmithKline, LLC (“GSK”) jointly move the Court for relief from a clerical mistake pursuant to Rule 60(a) of the Federal Rules of Civil Procedure. Due to a clerical mistake, on May 1, 2018, Defendants mistakenly listed this case on Exhibit A to Defendants’ Notice Regarding The Court’s Order To Show Cause Pursuant To Case Management Order No. 85 (MDL Doc. No. 2583-1). This clerical mistake resulted in this case being included on Appendix A to CMO 118 (MDL Doc. No. 2612), which this Court entered on May 1, 2018, as a case that the Court ordered to be dismissed with prejudice. The parties jointly request that this Court remove Plaintiff from Appendix A to CMO 118 and reinstate Plaintiff’s claims against Defendants Auxilium and GSK in this case, and state the following in support:

1. On January 30, 2017, Plaintiff filed a Master Short-Form Complaint naming Defendants Auxilium and GSK, alleging injuries as a result of using certain testosterone replacement therapy products (Dkt. No. 1).

2. On December 8, 2018, the Court entered Case Management Order 85 requiring a Plaintiff Profile Form to be executed by the Plaintiff within 90 days (MDL Dkt. No. 2295).

3. On March 28, 2018, Defendants filed a First Notice For Entry of an Order to Show Cause Pursuant to the Case Management Order No. 85 (MDL Dkt. No. 2419).

4. On April 4, 2018, Defendants filed a First Amended Notice for Entry of an Order to Show Cause Pursuant to Case Management Order No. 85 (MDL Dkt. No. 2428).

5. On April 6, 2018, the Court filed Case Management Order 110 ordering Plaintiff to respond to show good cause as to why the Court should not dismiss the Plaintiff's case with prejudice, or impose another appropriate sanction (MDL Dkt. No. 2434).

6. On April 23, 2018, Plaintiff submitted medical records to the Defendant.

7. On April 27, 2018, Plaintiff served a Plaintiff Profile Form on Auxilium and GSK.

8. On April 27, 2018, Plaintiff responded to CMO 110 showing good cause as to why the Court should not dismiss the Plaintiff's case with prejudice (MDL Dkt. No. 2563).

9. On May 1, 2018, due to a clerical mistake, Defendant mistakenly listed Plaintiff's case on Exhibit A to Defendants' Notice Regarding The Court's Order To Show Cause Pursuant To Case Management Order No. 85 (MDL Doc. No. 2583-1). On May 11, 2018, the Court entered Case Management Order 118 ordering for the dismissal of cases, including this case, with prejudice for noncompliance with CMO 85 (MDL Dkt. No. 2611).

10. Given that Plaintiff was mistakenly listed as noncompliant to CMO 85 as result of a clerical mistake, the interests of justice are best served by reinstating Plaintiff's claims against Auxilium and GSK.

11. This motion is timely made within the limits set forth under Fed. R. Civ. P. 60.

WHEREFORE, the Parties respectfully move this Court, pursuant to Fed. R. Civ. P. 60(a), to remove Plaintiff from Appendix A to CMO 118 and reinstate Plaintiff's claims against Defendants Auxilium and GSK in this case.

Respectfully submitted this 14th day of May, 2018.

/s/ Brian John Perkins (with permission)

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Pharmaceuticals Inc.) and GlaxoSmithKline,
LLC*

CERTIFICATE OF SERVICE

I hereby certify that on May 14, 2018, the foregoing document was filed via the Court's CM/ECF system, which will automatically serve and send email notification of such filing to all registered attorneys of record.

/s/ Andrew Solow _____

Andrew Solow